

Call to Order:

The meeting was called to order at 7:36 p.m. Present were Chairman, Paul Salafia, and members, Linn Anderson, Vincent Chiozzi, John McDonnell, Joan Duff and associate member Mark Yanowitz; also present were Paul Materazzo, Director of Planning and Jacki Byerley, Planner.

Celestial Circle:

The Board opened the public hearings that were continued from the September 9th meeting on an application by Rayvon Realty Trust for a nine lot Definitive Subdivision Plan, entitled Celestial Circle, and a Special Permit for a Cluster Development and a Special Permit for Earth Movement, located off Sunset Rock Road.

Chairman Salafia reviewed the specific items that would be discussed at this evening's meeting. They were: waiver requests, landscaping/screening, earth movement, and drainage.

Waiver request:

Dan Koravos of DK Engineering, representing the applicant, reviewed the waiver requests which are the elimination sidewalks, to allow a reduction of water line easement width to 15', to allow private water line easements across lots, and a waiver from Section VII.N.O to allow for the use of porous pavement. Mr. Koravos noted that the roadway will be a private way and maintained by a Homeowners' Association (HOA). The Board had questions about trash pickup, which will be contracted by the homeowners, and the porous pavement. Mr. Koravos noted that use of porous pavement reduces the volume of runoff on-site. Jacki Byerley reviewed her memo to the Board dated September 17, 2009 and noted that DPW has expressed concern with the waiver to use of porous pavement if the roadway was to be a public way. Ms. Byerley noted the DPW has not commented on the other waiver requests. Calvin Perry of 25 Timothy Drive commented that he is opposed to the two waiver requests for the easements and has concerns with the maintenance of the private way. Chairman Salafia briefly described the purpose of a HOA. Mr. Koravos noted that he has discussed what is involved in monitoring and maintenance of porous pavement with GeoSentric and that the cost of that maintenance will be the responsibility of the HOA. Mr. McDonnell reviewed how the Operation and Maintenance agreement works. Bruce Jacobs of Hydro Analysis, representing abutters to the project, noted that that the porous pavement should be compressed so if it fails it will pond in the roadway and not spill over. Janet Bernardo of ESS Group, the peer consultant for the Town, noted that porous pavement is up and coming and that the DEP encourages infiltration to reduce volume. Attorney Andrew Caffrey, representing Mr. Gable, questioned the grade, the HOA and the estimated maintenance costs to be covered by the HOA. Mr. Koravos reviewed the grades of the roadway.

Landscaping/screening:

Mr. Koravos noted that developer is willing to include a condition for screening the driveway across the street and that there is a natural buffer around the project. Ray Cormier, the developer, noted that they will do screening at the direction of the homeowner, which must be executed in up to 12 months. Lynne Hunter of 30 Sunset Rock Rd., expressed concerned about the 26 mature trees being removed because she feels it helps with the runoff. Ms. Hunter, the owner of the driveway for which the developer has offered a condition, also noted that it is a blind driveway and the addition of trees would not allow her to see adequately in exiting her driveway. Attorney Caffrey questioned the placement of the street trees on private property. Mr. Koravos noted the trees have to be behind the right-of-way. Ms. Byerley reviewed the subdivision rules and regulations and noted that the Tree Warden tells the developer where to

Celestial Circle (cont.):

plant the street trees. Ms. Hunter questioned the trees in the right-of-way that will be removed where they will be placed. Mr. Koravos noted that if the trees are not shown on a plan then they have to go to the Tree Warden. The Board wants the tree Warden to review the plans. Attorney Caffrey questioned what right the applicant has to remove trees in the right-of-way and what criteria they use to decide which trees are removed. Ms. Byerley noted that trees are removed with every subdivision in town which goes through the public hearing process. Chairman Salafia noted that trees are removed for access, drainage, foundations, and sight distances. Mr. Dunn of Sunset Rock Road noted that if the Form A at 19 Sunset Rock Road was not developed they would not have the drainage problems. Chairman Salafia noted that the submission before the Board is not the development of 19 Sunset Rock Rd. Mr. Gable questioned when a real plan will be submitted. Mr. McDonnell reviewed the definitive plan process and how the plan evolves through that process.

Drainage:

Mr. Koravos reviewed the pre and post development drainage areas and noted that there is a decrease of runoff post development. Ms. Anderson questioned if 19 Sunset Rock Road was included in the drainage calculations. Mr. Koravos reviewed the drainage area included in the calculations, which included 19 Sunset Rock Rd. Ms. Anderson noted that Form A's do not come before the Board, but for drainage purposes, it will take into account the entire area including the Form A. Ms. Bernardo reviewed the drainage for the area and noted that 19 & 15 Sunset Rock Road is included in the watershed area. Mr. Cormier noted that the added drainage is due to sewer coming into the area. Several abutters noted they did not have a problem with drainage until after the development of 19 Sunset Rock Road. The Board questioned if they could extend the swale and if DPW knew about the water problem in the area. Mr. Dunn noted that DPW has put in an earthen berm. Mr. Gables expressed concern regarding blasting as it relates to drainage. Ms. Bernard noted it is difficult to control where water flows and noted she questions blasting in her report to the Board. Mr. Jacobs gave a handout to the Board dated September 22, 2009 outlining his findings of a review of the drainage plan for the project. Paul Floyd an abutter asked the Board not to table the discussion on his letter regarding the number of lots. The Board noted they would take the information into consideration. The Board scheduled three additional meetings

Oct. 13th at 9:00 pm to discuss drainage and earth movement

Oct. 27th at 8:45 pm to discuss administrative, legal and landscaping

Nov. 10th at 7:00 pm to discuss drainage and any outstanding items

On a motion by Ms. Anderson seconded by Mr. McDonnell the Board voted to continue the public hearings for Celestial Circle to the three (3) dates on the secretary's list written tonight.

Vote Unanimous (5-0)

60-62 Essex Street:

Mr. Materazzo reviewed his memo to the Board dated September 18, 2009. Steve Stapinski, of Merrimack Engineering Services, reviewed the location of the project, action taken at the Spring Town meeting and the town owned land adjacent to his property. He also reviewed the Board's previous approval which included 6 bedrooms or 3 units on site. Ms. Stapinski reviewed a new proposal, which includes a duplex with 3 1-bedroom apartments in the rear of the property (5 units or 7 bedrooms with 7 parking spaces). He also reviewed the Planned Development by-law.

60-62 Essex Street (cont.):

and what it would allow. The Board questioned if the town yard overlay would apply. Mr. Materazzo noted that the initial phase does not include the area. Mr. Stapinski reviewed the areas in the vicinity of Essex Street. The Board questioned the slopes and the previous proposal. Mr. Stapinski noted an abutting land owner does not want the town to sell the land and notes that this abutter has a license over that land with the town. The Board questioned if the proponent was open to a private/public partnership. Mr. Stapinski noted he bought the property with financing and needs to move forward with something. He also questioned if the Board would consider a mixed use development mixed use. Mr. Materazzo noted that any application would have to have a traffic study. The Board discussed parking on town property and some members suggested the town should eliminate free parking on town owned land.

Merrimack Estates:

Kenneth Lania of K & M Land Consultants, representing Merrimack Estates and Melmark, reviewed the minor modification request which included the relocation of the water main loop and the relocation of the drainage access road. Mr. Lania noted that the relocation of the water main would create a true looping of the water and would provide water to the church's cemetery; they have obtained all easements from the Franciscan Center. Ms. Byerley reviewed her memo to the Board dated September 17, 2009 and noted DPW has reviewed and agrees with the modification. On a motion by Ms. Anderson, seconded by Mr. McDonnell, the Board voted that the request by Wild Realty Trust to relocate the water main and drainage access on a previously approved plan is minor in nature. **Vote** Unanimous (5-0)

On a motion by Ms. Anderson, seconded by Mr. McDonnell, the Board voted to grant the minor modification request that was requested by Wild Realty Trust subject to the four (4) conditions outlined in Ms. Byerley memo to the Board dated September 17, 2009. **Vote** Unanimous (5-0)

ACC Lane Tennis Court/Pool:

Doug Lees of Land Engineering Services, representing Yvon Cormier, gave an overview of the proposed changes and noted that a tennis court would be eliminated and the parking lot would be moved to that area. Mr. Materazzo noted that the Police and Fire Departments have reviewed and approved the changes. Doug Lees noted that the parking lot will be converted to lawn. The Board questioned if the speed tables were installed. Mr. Materazzo noted that that was another project and will put the item on another meeting for discussion. Some Board members expressed concerns that the applicant might come back with another modification. Ms. Byerley noted that the original project was a Site Plan Review, not a Special Permit. She further noted that the Inspector of Buildings has reviewed the plans and thought the Board should know about the change. Mr. Materazzo noted that it was a field change and feels it's a minor change. On a motion by Mr. McDonnell, seconded by Mr. Chiozzi, the Board voted to consider the modification minor in nature and voted to approve the minor modification request. **Vote:** Mr. Salafia, Mr. McDonnell, Ms. Duff and Mr. Chiozzi voting yes, and Ms. Anderson abstained from voting. (4-0-1)

Monette Circle:

Attorney Donald Borenstein, representing the developer, reviewed the request dated September 11, 2009 to extend the Special Permit for Earth Movement SP07-06 associated with the Monette Circle definitive subdivision plan. On a motion by Ms. Anderson seconded by Mr. McDonnell the Board voted to extend the Special Permit SP07-06 for two (2) years from the original expiration date the extension will expire on October 15, 2011. **Vote** Unanimous (5-0)

Special Town Meeting:

Jacki Byerley reviewed the proposed warrant articles to amend the General By-laws to Private Property on Main Street Sidewalks and the Out Door Dining By-law outlined in the Town Warrant. On a motion by Ms. Anderson, seconded by Mr. McDonnell, the Board voted to recommend approval to the proposed amendments to the General By-laws to the Private Property on Main Street Sidewalks and the Outdoor Dining as written. **Vote** Unanimous (5-0)

Adjournment: The Board voted to adjourn the meeting at 10:12 p.m.